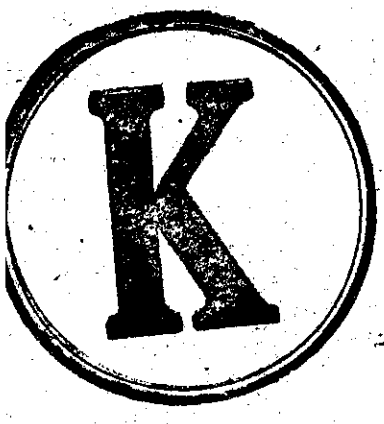

1951

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File No. O. Indus Relations/51

Legal Department

A **BRANCH**

Subject:— Opinions under the Bombay Industrial Relations Act, 1946

File No. O. Indus Relations/51

Gen. 194 e.

225-A

C O N T E N T S.

Legal Department File O. Indus. Relations 5/51.

Sr. No.	Compilation No.	Subject.	Pages.

Opinions under the Bombay Industrial Relations Act 1946.

1. 1538 / 24/1/1951. Section 86 A. Formation of Benches of Wage Board. 1-4

2. 104-Confl. / 30/1/1951. 15(b)(v) Sections 144 and 78 (1) A ( ) Industrial Disputes (A.T.) Act, 19 0. Sec. 25 Strike by workers in the cotton Textile Mills- whether declaration under sec. 25 of I.D. (A.T.) Act by the Presidency Magistrate is sufficient for the purposes of fifth proviso to sec. 14, and section 15(b)(v) or whether such declaration should be by a labour court. 5-8

3. 2465. / 9/2/1951. Section 34(6)(a), (b) whether the phrase 'in respect of the employees' occuring at the end of proviso (b) to sec. 34(6) relates to the entire mass of employees in an industry or only to the members of a approved union. What is the scope of section 3 4 6 (a) 9-10

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Formation of Benches of Wage Board Bom. Industrial Relations Act, 1946- Sec. 86 E.

Office of the M.L.A.

Labour and Housing Department states that although section 92(2) of the Bombay Industrial Relations Act, 1946 provides for formation of Benches of the Industrial Court power to do so is implied in the general provisions of sub-section (1) of that section. That Department is, therefore, of the view that since section 86E authorises a Wage Board to follow the same procedure as the Industrial Court in respect of arbitration proceedings before it provision for formation of Benches of Wage Board can be made by suitably amending the Bombay Wage Board Rules as suggested by the President of the Industrial Court (Hon'ble Justice Sen). Secretary, Labour and Housing Department is doubtful of this. The M.L.A. is requested to advise.

2. Section 86E of the Bombay Industrial Relations Act, 1946 provides as follows :-

"A Wage Board shall, in respect of an industrial matter or industrial dispute referred to it for decision, subject to any rules of procedure wich may be prescribed, follow the same procedure as the Industrial Court in respect of arbitration proceedings before it.

In particular the rules of procedure which may be prescribed in this behalf may provide for the formation of committees for [illegible] local areas from amongst members of the Wage Board with co-option of such other persons from the local areas as the Wage Board would for the prupose of any reference think fit to appoint to the committees and the exercise by each such committee of the jurisdiction and powers vested

vested in the Wage Board in respect of such industrial matters of industrial disputes as are referred by the Wage Board to the Committee.

This section lays down that subject to any rules of procedure which may be prescribed the Wage Board has to follow the same procedure as the Industrial Court in respect of arbitration proceedings before it. It does not provide for authorising the Wage Board to frame rules for formation of Benches consisting of one or more of its members and the exercise by each Bench of the Jurisdiction and powers vested in the Board as in section 92(2). A specific provision is made in sub-section (2) of section 92 authorising the Industrial Court to frame regulations providing for the formation of Benches. This power to frame regulatin for formation of Benches cannot be implied from the general power given to the Industrial Court to make regulations given in sub-section (1) of this section. In the absence of any specific provision authorising the Wage Board to frame rules for constituting Benches such a rule, if so framed, would not be intra vires section 86E.

Remembrancer of Legal Affairs.

U.R. to L.H.H.D. No. 1538, dated the 24th January, 1951.

Submitted.

Th workers in the cotton textile ~~missl~~-mills in Bombay had gone on strike from the 14-8-1950. The Workers were incited and instigated to strike, by the M.M.Sabha, Bombay, which has no status under the B.I.R.Act in the cotton textile industry. The R.M.M.Sangh, Bombay which is Representative Union under the B.I.R.Act did not suppor t the strike. The Presidency Magistrate V Court has held this strike to be illegal under section 25 of the I.D. (Appelate Tribunal) Act, 1950. The question for the consideration of the R.L.A. is whether ~~this declaration under section 25 of the R.I.A. is whether~~ this declaration under section 25 of the I.D., (A.T.) Act, is sufficient for the purposes of fifty proviso to section 14, and section 15(b)(v) of the B.I.R. Act, 1946 or whether such declaration should be by a Labour Court under sec. 78(1)A(c) of the B.I.R.Act.

Office of the R.L.A.

The question of the illegality of the strike is being canvassed before the Supreme Court; and it would not, therefore, be advisable to take any action until the final pronouncement is made.

Remembrancer of Legal Affairs.

U.R. to L. & F.D., No. 104-Confl. dated the 30th January 1951.

Le-l Department.

Bombay Industrial Relations Act, 295- 1946-sec. 34(6)(a), (b).

The view taken by the Labour and Housing Department is correct.

2. Clauses (a) and (b) of section 34, sub-section (6) of the Bombay Industrial Relations Acts are independent provisions, the former being of a general pre- application while the latter, read with clause (b) of the proviso, is limited to the investigation of the grievances of the employees or members of an approved union. Consequently, any matter in which the employees as a whole have an interest would fall under clause (a) and it would be open to the Labour Officer to take action under that clause even though there is no request of an approved union in respect of such matter.

Additional Secretary to Govt.

U.R. to L. & H.D. No. 2465, dated the 9th Febrary. '51.